UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

DATATREASURY CORPORATION	§	
Plaintiff,	§	
	§	
vs.	§	**Civil Action No. 2-06CV-72-DF**
	§	
WELLS FARGO & COMPANY, *et al.*	§	
Defendants.	§	

DEFENDANTS FIRST HORIZON NATIONAL CORPORATION, AND FIRST TENNESSEE BANK NATIONAL ASSOCIATION'S NOTICE OF ACCEPTING MODIFIED STIPULATION

Pursuant to the Court's January 12, 2007 Order, Docket No. 411, Defendants First Horizon National Corporation ("First Horizon") and First Tennessee Bank National Association ("First Tennessee") respectfully notify the Court that, based on the terms of the Order, they accept the modified stipulation proposed in the Order. The Order permitted that this matter be stayed as to the "Ballard patents" -- U.S. Patent No. 5,910,988 and U.S. Patent No. 6,032,137 -- in light of the *ex parte* reexamination of the Ballard patents initiated by First Data Corporation (hereafter "petitioner"). As a required condition of the Court's stay, First Horizon and First Tennessee agree to the following stipulation and the concomitant stay of all proceedings as to them:

> As a condition of the stay, Defendant may not argue invalidity at trial based on one or more prior art printed publications that were submitted by the petitioner in the reexamination proceedings. However, Defendant will be permitted to rely for obviousness on the combination of printed publication reference that was submitted by petitioner in the reexamination with prior art that was not so submitted.

Dockets.Justia.com

Dated: January 23, 2007

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this document has been served on all counsel of record via electronic mail through Local Rule CV-5(a) on this the 23rd day of January, 2007.

______*/S/ Tonya M. Gray*______
Tonya M. Gray